

JAN 17 2001

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service:	)	CC Docket No. 96-45
Recommendations for Phasing Down Interim	)	
Hold-Harmless Provision	)	

**PETITION FOR RECONSIDERATION OF  
PUERTO RICO TELEPHONE COMPANY, INC.**

Puerto Rico Telephone Company, Inc. ("PRTC"), by its attorneys, hereby requests reconsideration of the Commission's decision to phase-down hold harmless support through one-dollar reductions in average monthly, per-line support in each PRTC study area beginning January 1, 2001.<sup>1</sup> This phase down would repeat annually until the support is eliminated. Under this plan, high cost support to a majority of PRTC's lines will be eliminated after the second year of the phase down. PRTC notes that the January 1, 2001 effective date does not preclude a change in policy, as the universal service revenue quarterly revenue requirement may be adjusted to reflect any prospective change adopted through reconsideration.

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<sup>1</sup> Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Thirteenth Report and Order and Further Notice of Proposed Rulemaking, FCC 00-428 (rel. Dec. 8, 2000) ("USF Thirteenth Report and Order"); 65 Fed. Reg. 78990 (Dec. 18, 2000).

**I. THE RECORD SUPPORTS DELAY OF A PHASE DOWN FOR PUERTO RICO UNTIL REVIEW OF THE FORWARD-LOOKING MECHANISM IS COMPLETED BY JANUARY 1, 2003**

The Commission adopted the proposal for phase down of hold harmless support based on the belief that it would “ensure a prompt, equitable phase-down of interim hold-harmless support without causing undue rate disruption.”<sup>2</sup> Though the assessment that undue rate disruption will not follow the phase down may apply for carriers receiving objectively minimal high cost support per line on a study area basis, this is not the case for Puerto Rico. The high cost support amount eliminated as of January 1, 2001, for Puerto Rico based on PRTC’s line count is \$15,465,228.<sup>3</sup> No other area is slated for an impact of this magnitude, the closest being Southwestern Bell-Arkansas, which is losing \$2,632,152.<sup>4</sup> Though for the other study areas that will lose high cost support under the phase down the Commission may be able to declare that “undue rate disruption” will not occur, such disruption can be expected in connection with the phase-down as applied to PRTC, and Puerto Rico generally.<sup>5</sup>

In the USF Ninth Report and Order, the Commission determined that a carrier-by-carrier hold-harmless provision is necessary, so that “no sudden or undue disruption in consumer rates occurs during the transition to the new federal high-cost support mechanism based on forward-

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<sup>2</sup> Id. at ¶ 1.

<sup>3</sup> Id. at Appendix C.

<sup>4</sup> Id.

<sup>5</sup> PRTC demonstrated in its Comments and Reply Comments that Puerto Rico consumers could not be expected to absorb the effects of the phase down. See PRTC Comments, CC Docket No. 96-45 (Aug. 14, 2000) at 4-6; PRTC Reply, CC Docket No. 96-45 (Aug. 28, 2000) at 2-3; see also PRTC Comments, CC Docket No. 96-45 (Dec. 17, 1999) at 4-10; PRTC Comments, CC Docket Nos. 96-45 and 96-262 (July 23, 1999) at 6.

looking economic costs.”<sup>6</sup> Near elimination of high cost support to PRTC through deep cuts in two consecutive years, and with no alternative support plan, does nothing to alleviate the sudden disruption to consumer rates in Puerto Rico. This result could be avoided simply by coinciding implementation of the phase down with review of the forward-looking mechanism, which is to be completed by January 1, 2003, less than two years away.

As the model results for Puerto Rico demonstrate, the model methodology is ineffective for predicting the costs of serving Puerto Rico.<sup>7</sup> Combined LTS and high cost support for Puerto Rico in 2000 exceeded \$140 million, but under the model methodology, that amount would be zero. No other carrier or state suffers a discrepancy of this magnitude under the transition to a forward-looking mechanism. While exclusion of LTS from the model methodology limits the devastating impact of the model on Puerto Rico, it does not change the fact that the flawed model methodology would provide no support to Puerto Rico, where the telephone service penetration rate is the lowest in the Nation. The Commission has noted that the context for challenges to the model is reconsideration of the USF Ninth and Tenth Reports and Order or in the review of the forward-looking mechanism.<sup>8</sup> If this is the case, then the Commission should delay the phase down of hold harmless support for Puerto Rico until these issues are resolved.

This approach also would be consistent with that taken by the Commission for LTS. In the USF Thirteenth Report and Order, the Commission adopted the Joint Board’s

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<sup>6</sup> Federal State Joint Board on Universal Service, Ninth Report and Order and Eighteenth Order on Reconsideration, 14 FCC Rcd 20432, 20475 (1999) (“USF Ninth Report and Order”).

<sup>7</sup> See, e.g., PRTC Petition for Reconsideration, CC Docket Nos. 96-45 and 97-160 (Jan. 3, 2000); PRTC Comments, CC Docket Nos. 96-45 and 97-160 (July 23, 1999); PRTC Comments, CC Docket No. 96-45 (June 1, 1998); PRTC Petition for Reconsideration, CC Docket No. 96-45 (July 17, 1997) at 6-7.

<sup>8</sup> USF Thirteenth Report and Order at n.50.

recommendation to exclude LTS from the hold harmless phase down as it considers high-cost support for rural carriers and revisions to the rate-of-return interstate access charge regime.

According to the Commission,

maintaining LTS for non-rural carriers is consistent with our objective to maintain the current support structure, as modified, for rural LTS recipients pending rural high-cost reform. Because LTS is geared primarily to the needs of small, rural carriers, we find that this determination should take place in the context of our related proceedings to reform the high-cost support mechanism for rural carriers and the interstate access charge system for rate-of-return carriers.<sup>9</sup>

Likewise, any phase down of hold harmless support should take place in the context of — not prior to — completion of the review of the forward-looking mechanism.

Indeed, the Commission has already concluded that “the phase-down schedule should be reexamined in conjunction with our review of the forward-looking mechanism.”<sup>10</sup> If such review is limited to a retrospective review of the impact of phase-down on local subscribership, however, then the identification of rate disruptions through that review will be too late, as subscribers will have already left the network or been discouraged from signing on. In Puerto Rico, with a telephone subscribership rate of 79 percent, the potential for negative impact upon on large number of people is great. Though PRTC will still receive some support at the time of the anticipated review, such support will be limited to the approximately 150,000 lines in its central study area, while support for over 1,100,000 lines would have been eliminated. Quite plainly, rate shock for Puerto Rico cannot be minimized when the greatest share of its high cost support will be eliminated by the second year of the phase down.

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<sup>9</sup> Id. at ¶ 9.

<sup>10</sup> Id. at ¶ 13.

Contrary to the Commission's conclusion that the public interest is served by expeditious phase down of high cost support, the public interest in Puerto Rico will be harmed by expeditious phase down. With a completed review of the forward-looking methodology less than two years away but near elimination of Puerto Rico's high cost support set to be accomplished in the same timeframe, the record in this proceeding and the public interest require that the Commission postpone implementation of the phase down for Puerto Rico.

**II. PHASE DOWN OF SUPPORT ON A TARGETED WIRE CENTER BASIS PROVIDES A BETTER BALANCE BETWEEN PROMPT PHASE DOWN AND AVOIDING UNDUE RATE DISRUPTION**

PRTC alternatively recommended that the Commission determine reductions in per-line hold-harmless support on a wire center basis, consistent with the current universal service rules. Section 54.311(b) of the Commission's rules targets hold-harmless support to non-rural carriers based on a "cascading" or descending method whereby support is distributed first to wire centers with the highest forward-looking economic cost per-line. Under this method, support is targeted to wire centers, in a cascading fashion, until support is fully distributed, and a state commission must certify that the support is being applied in this manner for a carrier to continue receiving support.<sup>11</sup> In the USF Thirteenth Report and Order, the Commission declined to phase down support according to the targeted amounts per wire center but retained the requirement that remaining support amounts continue to be targeted according to Section 54.311(b).

The Commission's approach of phasing down by study area and targeting support by wire center exacerbates the impact of the phase down, and PRTC urges the Commission to reconsider its decision in this respect if it does not postpone phase down until review of the

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<sup>11</sup> 47 C.F.R. § 54.311; see also Certification by Telecommunications Regulatory Board of Puerto Rico, CC Docket 96-45 (Nov. 27, 2000), amending September 26, 2000 Certification.

forward-looking mechanism has been completed. Targeting requires carriers to provide greater amounts of support to higher cost wire centers. Therefore, with the phase down each year, a greater amount of support is eliminated for the higher cost wire centers than for lower cost wire centers.

The following example demonstrates the anomaly. Assume a study area has two wire centers serving an equal number of lines, and that on a study area basis, the support amount is \$2.00 per line, but on a wire center basis, targeted support is \$3.50 per line for Wire Center A and \$0.50 per line for Wire Center B. Applying the Commission's study area phase down, in Year 1 the study area support amount is \$1.00 per line; on a targeted basis, Wire Center B's per line support goes to zero while Wire Center A's per line support falls by \$1.50 to \$2.00. Wire Center A effectively loses more than one dollar per line, because Wire Center B's targeted support is less than one dollar. Thus, the Commission's conclusion that one dollar per line in reduced support will not cause undue rate disruption does not take into account the actual combined effect of its phase-down and targeting requirements. The Commission did not consider this cumulative effect when it implemented phase down on a study area, rather than wire center basis, and PRTC urges the Commission to ameliorate the impact of phase down by implementing reductions on a support per line per wire center basis, rather than on a study area basis.<sup>12</sup>

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<sup>12</sup> PRTC notes that its request is not intended to discontinue targeting of support amounts, as implied by the Commission (at ¶ 16). Instead, PRTC's request is to calculate per line reductions in accordance with the targeted support so that no wire center will lose more than one dollar per line per month in a given year. The Commission's plan to phase-down on a study area basis and still require targeting effectively reduces support to the highest cost wire centers at a rate greater than one dollar per line per month in a given year.

### **III. IF THE COMMISSION PROCEEDS WITH A PHASE DOWN, IT MUST BE COMPETITIVELY NEUTRAL**

If the Commission does not reconsider its decision to phase down hold harmless support, then it should clarify that the phase down shall apply to all carriers receiving such support, not just incumbent local exchange carriers. PRTC notes that hold harmless support is also collected in Puerto Rico by Centennial Puerto Rico Operations Corp. ("Centennial") and its affiliate, Lambda Operations ("Lambda"). In 2000, Centennial and Lambda collected \$ 679,977 in hold harmless funds.<sup>13</sup> However, Appendix C to the USF Thirteenth Report and Order does not identify the hold harmless support that Centennial must also lose under the phase-down.

Section 54.307(a) provides that a competitive eligible telecommunications carrier receives support to the extent that it captures an incumbent's subscriber lines or serves new lines in the incumbent's service area.<sup>14</sup> In this regard, the Commission should clarify that a competitor's hold harmless support amount should be reduced also by one dollar per line per month on an annual basis. This result follows from the fact that a competitive eligible carrier receives support only to the extent that the incumbent does; as the incumbent's support is phased-down, the associated competitive carrier's support must be phased-down as well. In addition, this result is required to maintain competitive neutrality. Thus, the Commission should clarify that phase down, if retained on reconsideration, applies equally to competitive eligible telecommunications carriers providing service in a study area where the hold harmless phase down applies.

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<sup>13</sup> Universal Service Administrative Company, High Cost Loop Support by Study Area, Fourth Quarter 2000, Appendix #HC2 (Aug. 2, 2000). This excludes any LTS amounts collected by Centennial and Lambda by virtue of PRTC's participation in the NECA Common Line pool.

<sup>14</sup> 47 C.F.R. § 54.307(a).

#### IV. CONCLUSION

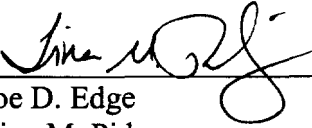
For these reasons, PRTC respectfully requests that the phase down of high cost support be postponed for Puerto Rico until the Commission completes review of the forward-looking mechanism on January 1, 2003. This will provide a fair assessment of possible rate disruption and resolve any model discrepancies that could reinstate support for an area whose support would otherwise be entirely eliminated.

If the Commission retains its phase-down schedule, then PRTC urges that it be revised to reduce support on a wire center, rather than a study area basis. By reducing support on a study area basis but then targeting on a wire center basis, the Commission is exacerbating the support loss for the highest cost wire centers, increasing the possibility for rate shock. Finally, under any phase-down plan, the Commission must clarify that such phase down applies to incumbents and competitors alike that serve study areas where hold harmless support is subject to the phase down.

Respectfully submitted,

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Dated: January 17, 2001



## **CERTIFICATE OF SERVICE**

I, Colleen A. Mulholland, certify that a copy of the foregoing Petition for Reconsideration of Puerto Rico Telephone Company, Inc. was mailed by first-class mail, postage pre-paid, on this 17<sup>th</sup> day of January, 2001 to each of the following individuals or entities (unless otherwise indicated):

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